

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.270 OF 2007

In

APPEAL FROM ORDER NO.799 OF 2005

Mr.Priya Prakash Malkar : Applicant

v/s.

Smt.Radhika J. Malkar & Anr. : Respondents

...

Mr.Nishigandh N. Patil for the applicant.

Mr.M.A.Rochiramani h/f. Mr.V.P.Sawant for resp. no.1.

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CORAM : A.M. KHANWILKAR, J.

DATE : MARCH 9, 2007.

P.C.

1. The only explanation offered in the Civil Application is that due to personal difficulty of the Advocate, he did not appear when the matter went by default on 10.7.2006. The appeal was listed for final hearing in terms of the order passed by this Court, and the hearing of the appeal was at the instance of the applicant. Interestingly, the applicant has not bothered to move this Court immediately after 10.7.2006 and in spite of the contempt motion taken out by the respondent on 22.12.2006, the present application is taken out only on 23.1.2007. No

explanation is forthcoming as to what prevented the applicant from taking out this application in earlier point of time. The only explanation as aforesaid given in the application is that the Advocate did not appear on 10.7.2006. That cannot be said to be sufficient cause for condoning the delay or for recalling the order dated 10.7.2006.

2. Hence, dismissed.

A.M. KHANWILKAR, J.